

# NT PLANNING COMMISSION HEARING

## VARIATION TO EXCEPTIONAL DEVELOPMENT PERMIT EDP20/0015

Section 3181 Hundred of Glyde Hundred (398 Mermaid Circuit, Dundee Beach)

Variation to condition 4 of EDP20/0015 including changes to the carparking layout, a sea container addition, a storage container with a reduced side boundary setback and an additional accommodation room (wheelchair accessible)

Agenda Item Number: **1**

Meeting Date: 4 December 2023

Attachment A - Exhibition Material

Attachment B - Submissions Received



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**Eponine Richardson**

Planner,  
Development Assessment Services

# Report to the Planning Commission

This report is prepared under section 22 of the *Planning Act 1999*, and considers the submissions made in relation to the proposal.

## 1. GENERAL INFORMATION

<b>ADDRESS:</b>	Section 3181 (398) Mermaid Circuit, Dundee Beach , Hundred of Glyde
<b>AREA:</b>	4480m <sup>2</sup>
<b>CURRENT ZONE:</b>	Zone SN1 (Specific Uses – Namarada)
<b>PROPOSED LAND USE:</b>	Variation to condition 4 of EDP20/0015 including changes to the carparking layout, a sea container addition, a storage container with a reduced side boundary setback and an additional accommodation room (wheelchair accessible)
<b>APPLICANT:</b>	Emma Louise Cartwright
<b>LAND OWNER:</b>	Emma Louise Cartwright

## 2. LEGISLATIVE REQUIREMENTS

The Minister for Infrastructure, Planning and Logistics is responsible for determining proposals to grant or vary an Exceptional Development Permit (EDP). The *Planning Act 1999* establishes requirements relating to the exhibition, consultation and reporting on proposed Exceptional Development Permits.

Under section 22(6), the Planning Commission must hold a hearing if submissions are received during the exhibition period, and the Chairperson is satisfied that a hearing would provide further useful information.

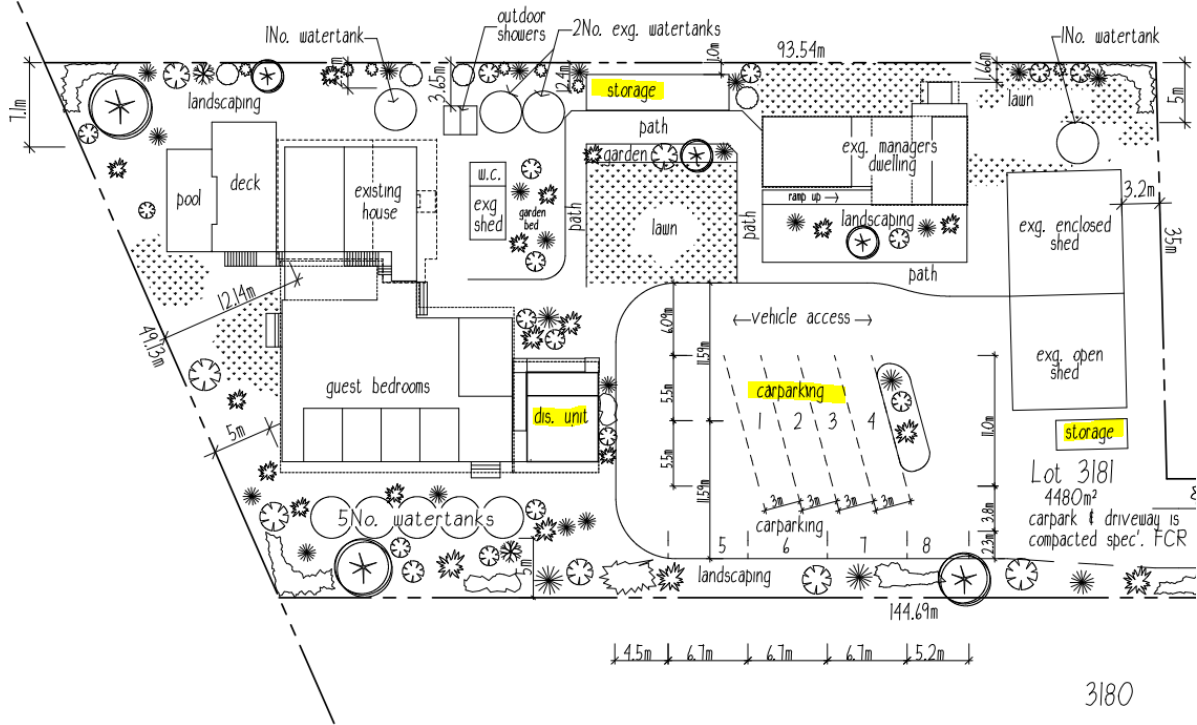
Under section 24 of the Act, the Planning Commission must provide to the Minister for Infrastructure, Planning and Logistics, a written report that addresses the issues raised in the submissions; the issues raised at the hearing and during any consultation; and any other matters the Commission considers the Minister should take into account when considering the proposal.

## 3. PROPOSAL

Exceptional Development Permit EDP20/0015, issued in January 2021, granted consent for the existing rooming accommodation for 12 persons (guests, staff and manager/landowner) in 1 x 5 bedroom and 1 x 2 bedroom dwellings. The application is in direct response to two separate enforcement complaints received in June and July 2021 alleging a breach to the conditions of EDP20/0015.

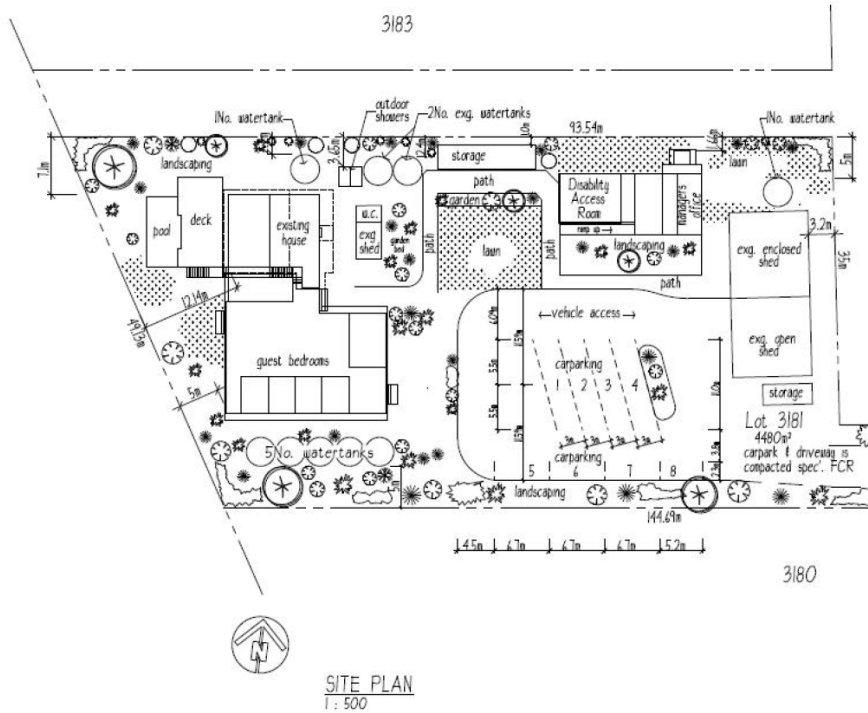
The proposal seeks retrospective consent for a variation to condition 4 of EDP20/0015 including changes to the carparking layout, a sea container addition, a storage container with a reduced side boundary setback and an additional accommodation room (wheelchair accessible). The site plan submitted with the application depicts the proposed alterations.

Figure 1: Site Plan



SITE PLAN  
1 : 500

Following exhibition of the proposal amendments were made to the proposed development. The changes removed the proposed freestanding disabled unit and seek to convert the existing manager's residence to a disability compliant accommodation unit. A copy of the new site plan is below.



SITE PLAN  
1 : 500

A copy of the exhibition material, including the application is at **Attachment A**.

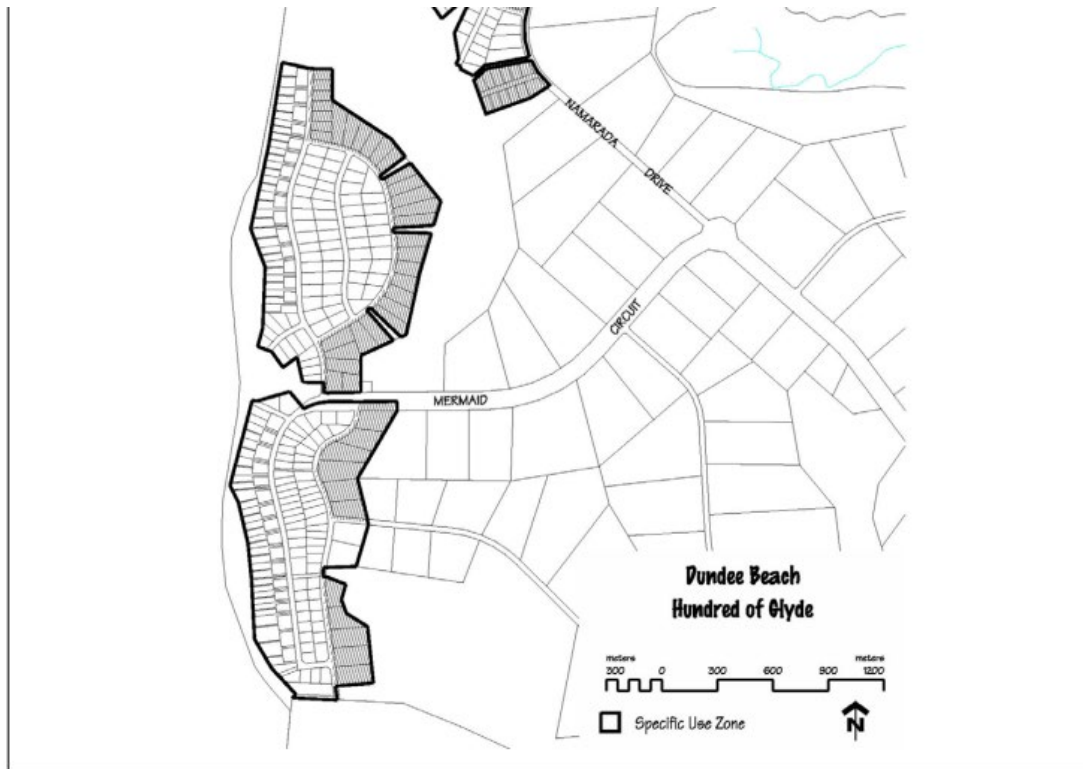
#### 4. SITE AND LOCALITY CONTEXT

The subject site is 4480 square metres in size and is within Specific Use Zone SN1 (Namarada) of the Northern Territory Planning Scheme 2007. The proposal is subject to the assessment provisions of Zone RR (Rural Residential) of the Northern Territory Planning Scheme 2007.

**Map 1: Showing Site and Surrounds**



**Map 2: Site Zoning**



## 5. EXHIBITION OF PROPOSAL

On 9 June 2023, the Minister for Infrastructure, Planning and Logistics determined under section 39 of the *Planning Act 1999* to continue consideration of the proposed amendment by placing it on exhibition.

The proposal was on public exhibition for a period of 28 days and was notified in accordance with the requirements of the *Planning Act 1999*. The exhibition closing date was 28 July 2023.

## 6. SUBMISSIONS

Below is a summary of the matters raised in the submissions. A copy of the submissions are included in Attachments **B1 – B5**.

The amended site plan was forwarded to the submitters on 9 November 2023. Comments to the amendments were requested by 24 November 2023. Two additional responses to the amended plan were received from Mr Rigby and Mr Jones. These are included in the responses below.

### Public Submissions

Four opposing submissions were received from the public regarding this proposal.

Submitter	Discussion Points
Garry Burrows (Attachment B1)	<ul style="list-style-type: none"> <li>• With the addition of two containers and an additional accommodation room, the site is overcrowded.</li> <li>• The conditions of the original Exceptional Development have been breached.</li> <li>• The demountable on the boundary should comply with the 5m building setback requirement for the zone.</li> <li>• Placing a demountable on the boundary interferes with firebreak requirements.</li> </ul>

<p>John and Tracy Jones</p> <p>(Attachment B2)</p>	<ul style="list-style-type: none"> <li>• Resides on the property directly north of the subject site on a permanent basis.</li> <li>• Supports the use of the site as rooming accommodation and refers to the majority of the requested changes as reasonable.</li> <li>• Objects to the retention of the demountable structure located 800mm from the shared property boundary.</li> <li>• The demountable was placed on the land without consent many years ago and the proponent has promised to move or completely remove the structure on a number of occasions.</li> <li>• Contrary to what is proposed, the structure has historically been used as overnight accommodation.</li> <li>• To date, the demountable continues to be used for overnight accommodation, housing up to four visitors.</li> <li>• The demountable existed when EDP20/0015 was lodged and approved and nothing has changed that supports its approval.</li> <li>• Approving the development 'rewards' the installation of illegal development.</li> <li>• The demountable has a poor visual appearance and is not desired so close to the property boundary. I</li> <li>• In response to the amended plan the submitter was waiting for the removal of the storage structure to the common property boundary.</li> </ul>
<p>Chris Rigby</p> <p>(Attachment B3)</p>	<ul style="list-style-type: none"> <li>• Made an initial submission during the timeframe requesting additional time to determine the legality of the application. In the event of the extension request not being granted, the submitter expressed a general objection to the application due to non-compliance with requirements set by the Minister (i.e. the NT Planning Scheme 2007).</li> <li>• No formal extension to the submission period was granted under the <i>Planning Act 1999</i> as no special circumstance legitimised the request under the Act.</li> <li>• Follow up correspondence was received on 4 August 2023 raising several concerns regarding the development of the site.</li> <li>• The sewerage system associated with the development of the site was not installed immediately and produces odour.</li> <li>• Noise from the site has been observed in the early hours of the morning.</li> <li>• The coastal reserve is used to entertain guests in front of the submitters block.</li> <li>• The business should not be in operation until a Certificate of Compliance is issued. This has not occurred.</li> <li>• Noise and dust associated with vehicles coming and going from the property has been observed and causes loss of residential amenity.</li> <li>• If the conditions of EDP20/0015 are varied, the reasons for the EDP are no longer relevant.</li> <li>• Further correspondence was received on 20 November 2023 with several points of discussion questioning the legitimacy of the proposal and its breach of the original conditions of the EDP.</li> </ul>

<p>Ian Stewart</p> <p>(Attachment B4)</p>	<ul style="list-style-type: none"> <li>• Claims a submission was sent at 1:51pm on 28 July 2023, despite no receipt of the submission at this time.</li> <li>• A summary of the original submission was received on 12 October 2023.</li> <li>• Several questions were raised in the correspondence regarding the impact of the reduced setback of the demountable structure and the number of expected guests resulting from the additional guest bedroom.</li> <li>• The reduced setback of the demountable structure is not conducive to rural residential living.</li> <li>• There may be implications for fire safety when placing a structure near the boundary.</li> <li>• The question was raised as to whether the inclusion of an additional bedroom with disability access will add to the number of expected guests referred to in EDP20/0015.</li> <li>• The car park may not comply with disability requirements.</li> </ul>
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### Service Authority Submissions (Attachment B5)

Submissions received from Service Authorities are summarised in the table below.

Service Authority	Comments
<p>Power and Water Corporation</p> <p>(Attachment B5)</p>	<p>Power and Water have no objections or requirements in relation to the proposal and note that reticulated water and sewerage is currently unavailable in the area.</p>

### Local Authority Submissions

Dundee Beach is located in the Cox-Daly unincorporated area and is not included in a local government area.

## 7. RECOMMENDATION

That under section 24 of the *Planning Act 1999*, the Planning Commission report to the Minister for Infrastructure, Planning and Logistics on the issues raised in submissions, issues raised at the hearing and any other matters it considers the Minister should take into account when considering the proposal.